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EXAMINER	
PHAM, TIMOTHY X	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Continuation Sheet

Continuation of 11:

Claims 11 and 42-43 were rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Since the Applicant amended to recite a "non-transitory computer readable storage medium" (Remark: page 17); therefore, these claims, 11 and 42-43, overcome U.S.C. 101 rejection.

Regarding the rejection of claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Gutierrez (US 2004/0233855) in view of Cain (US 2004/0029553), Applicant argues that Gutierrez in combination with Cain fails to disclose or suggest "route creation means for creating a plurality of routes to the first communication terminal by dupplicatively receiving the message" (Remark: page 19, 3rd paragraph). In response, the Examiner respectfully disagrees.

Gutierrez discloses route management means for storing and managing the plurality of routes created by the route creation means (Abstract; paragraphs [0010], [0015], [0022], [0024], [0031]-[0032]). In the previous Office Action, the Examiner asserted that Gutierrez fails to specifically disclose route creation means for duplicatively receiving a response to the message originated from the first communication terminal and transferred via a second communication terminal to create a plurality of routes up to the first communication terminal. Especially, Gutierrez fails to disclose "duplicatively receiving the message". Cain, on the other hand, discloses the deficiencies of Gutierrez (paragraphs [0014], [0017], [0032], [0041]-[0042], [0046]).

MPEP 2144 states that the strongest rationale for combining references is a recognition, expressly or impliedly in the prior art or drawn from a convincing line of reasoning based on established scientific principles or legal precedent, that some advantage or expected beneficial result would have been produced by their combination. In re Sernaker, 702 F.2d 989, 994-95, 217 USPQ 1, 5-6 (Fed. Cir. 1983). See also Dystar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick, 464 F.3d 1356, 1368, 80 USPQ2d 1641, 1651 (Fed. Cir. 2006). As stated in the last Office Action, it would have been obvious to one having ordinary skill in the art at the time of the invention by applicant to create a plurality of the routes to the first communication terminal by duplicatively receiving the message for advantages of improving reliability. Therefore, the Examiner clearly articulated and made explicit why the claimed invention would have been obvious and provided rationales for combining the cited reference as is required by applicable law and the MPEP and cited evidence of record to support the combination of references.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine,* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones,* 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Gutierrez discloses a method of communication in an ad-hoc network by distributing routing schemes to end user via one or more network devices (paragraphs [0009], [0023]), but failed to "duplicatively receiving the message" to create a plurality of routes. However, Cain discloses distributing duplicate message data along the plurality of discovered routes (paragraphs [0014],

[0017], [0023], [0041]-[0042]). Therefore, the Examiner clearly articulated and made explicit why the claimed invention would have been obvious and provided rationales for combining the cited reference as is required by applicable law and the MPEP and cited evidence of record to support the combination of references.

/ Timothy Pham/
Examiner, Art Unit 2617